

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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INDIA BREWERIES, INC.,

Plaintiff,

Case No. 05-C-467

v.

MILLER BREWING COMPANY,

Defendant.

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**OPINION AND ORDER**

The issues having been fully briefed, the court ORDERS that “Miller Brewing Company’s Rule 7.4 Expedited, Non-Dispositive Motion to Compel Discovery of Mr. Kenneth Michalak” (filed January 20, 2006) IS DENIED. The court is not persuaded that the Plaintiff has control of proposed deponent Michalak. However, if, within ten days from this date, he is not produced for a deposition, Kenneth Michalak will not be permitted to testify at the trial and his work product will not be offered or made available for use by the Plaintiff.

IT IS FURTHER ORDERED that “Defendant Miller Brewing Company’s Motion for Sanctions” (filed January 20, 2006) IS DENIED. The record is not sufficient to persuade the court that sanctions are warranted.

Done and Ordered in Chambers at the United States Courthouse,  
Milwaukee, Wisconsin, this 9th day of February, 2006.

s/ Thomas J. Curran  
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Thomas J. Curran  
United States District Judge

